



Linda Jacobson (3 Copies)
RCRA Project Manager
US EPA Region VIII
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November 5, 2009

SENT BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

**CONSENT DECREE
CIVIL ACTION NO. CV 98-3-H-CCL
EAST HELENA SITE
WORK PERFORMED IN OCTOBER 2009
PROGRESS REPORT #130**

Dear Ms. Jacobson:

On May 5, 1998, Asarco and the United States Environmental Protection Agency (EPA) entered into a Consent Decree (Decree) to further the objectives of the Resource Conservation and Recovery Act (RCRA) and the Clean Water Act (CWA). Section XI of the Decree (Reporting: Corrective Action) requires Asarco to submit certified monthly progress reports to EPA which discuss the actions taken by Asarco in achieving compliance with the Decree. The reports are to be submitted to EPA no later than the twentieth (20th) day of the following month. The following describes only those activities that have occurred or are related to projects performed during October 2009. The historical actions taken by Asarco in achieving compliance with the Decree are contained in previous monthly progress reports.

a. Describe the actions, progress, and status of projects which have been undertaken pursuant to Part VII of the Decree;

On October 2, 2009, Asarco notified EPA that the 2009 annual public meeting under the Consent Decree is scheduled to take place on November 10, 2009 at the East Helena Volunteer Firehall.

On October 14, 2009, Asarco was notified that EPA had scheduled the week of October 26, 2009 to conduct oversight of the temporary cap and interim liner installation. On October 21, 2009, EPA notified Asarco that the scheduled oversight was cancelled. Instead, EPA has scheduled a site visit for November 9, 2009 and plans to attend the November 10, 2009 annual public meeting.

2009 Cleaning and Demolition Work Plan

During October 2009, Cleveland Wrecking Company (CWC) continued hauling slag to demolition footprint areas in preparation for placement of temporary liners. Minor debris from cleanup of the entire site as well as dried sludges from wash down of the CSHB building were hauled to the CAMU Phase 2 cell. The entire surface of the CAMU Phase 2 cell has been graded for drainage and the area prepared for placement of the temporary liner.

On October 1, 2009, CWC placed cement grout in the water and sewer lines surrounding the sample and crushing mill as well as the groundwater sump near the abandoned breaking floor in accordance with the project specifications for utility line abandonment.

During October 2009, IRS continued to clean the CSHB building and also began work on Additive Alternate A items, which included the Barnum and Bailey coverall buildings, pump house, storm water sump, truck scale, and utility support towers. All Additive Alternate A items were completed in October. However, the cleaning of the CSHB building will continue into the first week of November.

On October 7, 2009 Northwest Linings arrived on site to begin filling sandbags for placement of temporary liners. Cold, wet and windy weather in October limited the placement of temporary liner. Temporary covers were placed in the abandoned and new breaking floor area, sample and crushing mill area, and hopper pad area. The remaining areas are scheduled to be covered with temporary liner within the first two weeks of November.

Hydrometrics personnel continued to photograph, record truck contents, and weigh every truck hauling waste to the CAMU cell. Hydrometrics personnel also sampled the contents of the haul trucks or dump bins at a frequency of 1 sample per 20 truckloads.

On October 1, 2009, EPA, in consultation with the Department, approved placement of the additional liner in the former coke storage area. On October 2, 2009, Asarco provided EPA with a map illustrating the former coke storage area and the approximate liner measurements.

Asarco's consultant, ARCADIS, continued to draft the report on the historic recordation of buildings scheduled for cleaning and demolition provided in the 2009 Work Plan for the facility. The printing and labeling tasks for archival quality photographs of the buildings were conducted during October. The large number of photographs included in the report, the requirement for hand-entry of photo data, and required number of final reports makes this a time-consuming task. The report is at approximately 95 percent complete, with internal quality control and review underway. Work continued on the video recordation of the demolition of the Blast Furnace Stack, the Acid Plant Stack, and the Sinter Stack, which took place August 14, 2009. In an October 9, 2009 letter and an October

15, 2009 e-mail communication, approval of the interview transcripts and script for the video was received from the State Historic Preservation Office, the Montana Department of Environmental Quality, and EPA. Finalization of the video deliverable continues. Still and video footage from an independent professional photographer who covered the event from the vantage point of a helicopter has been obtained. It will be used to supplement the work produced by ARCADIS' subcontractor on the video documentary. Asarco has requested that the video debut during the annual Work Plan review meeting to be held November 10, 2009 in the East Helena Firehall. It is anticipated that all deliverables will be submitted concurrently with the historic recordation report by November 10, 2009 to respond to this request.

The final weekly cleaning and demolition progress meetings took place on November 4, 2009.

RCRA Facility Investigation (RFI) Phase II Site Characterization and Risk Assessment Work Plans

On October 8, 2009, Asarco submitted to EPA the Human Health Risk Assessment (HHRA) Work Plan (October 2009). On October 17, 2009, Asarco submitted a response to comments matrix table for the HHRA Work Plan

Interim Measures

On October 14 and 30, 2009, Hydrometrics personnel conducted slug tests on four monitoring wells (EH-125, EH-126, EH-134, and EH-129) located in the former Lamping field. Slug test were conducted using a pneumatic slug test devise, which allows for proper water displacement in deeper wells. Three slug tests were conducted on each well to allow for accuracy and precision to be evaluated in the analyses. Hydrometrics personnel also commenced the Fall Semi-Annual monitoring program on October 27, 2009. Water levels and TDS were collected on October 27 and 28 from 156 monitoring wells as listed in Table 4 of the 2009 Groundwater and Surface Water Sampling and Monitoring Plan (Hydrometrics, 2009). Surface water monitoring was conducted on five Prickly Pear Creek sites (PPC-8, PPC-7, PPC-5, PPC-103, and PPC-3A), and from Lower Lake and Upper Lake on October 29, 2009. A total of 9 surface water samples (including one duplicate and one DI Blank) were submitted to Energy Laboratories for analysis of parameters listed in Table 3 of the 2009 Groundwater and Surface Water Sampling and Monitoring Plan (Hydrometrics, 2009). Groundwater monitoring commenced on October 30, 2009. As part of the Fall Semi-Annual Monitoring Program, Hydrometrics personnel are conducting a Well Integrity Evaluation as requested by EPA in their comments on the Updated Monitoring Program (March 2009). At the end of the monitoring program, the Well Integrity Evaluation will be reviewed and any problems with the wells and recommended maintenance/repairs to the wells will be summarized in a memorandum to Asarco and EPA.

On October 7, 2009, Asarco provided EPA and MDEQ with a map that illustrates the proposed groundwater monitoring well locations in the Mountain View Meadows property and in close proximity to the former City of East Helena landfill. In response to MDEQ's October 8, 2009 comments, Asarco agreed to move the well down-gradient of the former City of East Helena landfill further to the northwest. On October 17, 2009, Asarco provide EPA with a revised map illustrating the proposed groundwater monitoring well locations. On October 19, 2009, Asarco provide EPA with the proposed well installation schedule and estimated cost budget.

On October 21, 2009, Asarco provided EPA with a cost estimate for improving the road to the proposed up-gradient of the former City of East Helena landfill and requested EPA's approval of the proposed well locations. On October 22, 2009, Asarco advised EPA of (1) our endeavors to secure an access agreement for the proposed groundwater wells located on the Mountain View Meadows, (2) that the owners of the Mountain View Meadows property would require Asarco to remove the proposed groundwater monitoring wells when the property is developed in the future, and (3) that Asarco could not enter into an access agreement so close to plan confirmation. On October 22, 2009, EPA advised Asarco to delay scheduling the well drillers until Asarco and EPA attorneys can assemble revised access language that is agreeable to the parent.

Corrective Action Management Unit (CAMU)

During October 2009, Hydrometrics personnel continued to monitor the leak detection and leachate collection sumps at the CAMU. Approximately 8000 gallons of water was pumped from the leachate collection sump in October. The leak detection sump continues to have zero flow, although a small amount of water (3-4 inches) is present in the bottom of the sump.

RI/FS Long-Term Monitoring Program

On October 14, 2009, Asarco conducted the monthly sampling of select residential groundwater wells, as prescribed in the 2009 Groundwater and Surface Water Sampling and Monitoring Plan (May 2009). The laboratory analytical reports for this sampling event have not been received from Energy Laboratories.

A summary of the correspondence transmitted as part of the East Helena Consent Decree in October 2009 is included in Attachment 1.

- b. Identify any requirements under the Part VII of the Decree that were not completed in a timely manner, and problems or anticipated problem areas affecting compliance with the Decree;**

There were no requirements that were not completed in a timely manner nor were there problems or anticipated problem areas that may affect compliance with the Decree.

c. Describe projects completed during the prior month, as well as activities scheduled for the next month;

In accordance with the 1) 2006 Interim Measures Work Plan Addendum, Final Cleaning, Soil Sampling, Backfilling, and Interim Cap Work Plan and 2) 2006 Interim Measures Work Plan Addendum, Former Acid Plant Sediment Drying Area Slurry Wall, Monitoring, Operation, and Maintenance Work Plan, four areas in which interim caps have been installed are being inspected on a monthly basis. In December 2008, these monthly inspections were expanded to include areas in which above grade demolition activities were conducted under the 1) 2008 Interim Measures Work Plan and 2) 2008 Cleaning and Demolition Project Work Plan, with the most recent inspections occurring on October 8, 2009.

CAMU Landfill - In accordance with the July 2000 CAMU Design Analysis Report (Operation and Maintenance Plan), the CAMU is being inspected monthly with the most recent having occurred on October 2, 2009. The inspections of the CAMU Phase 2 cell temporary cover are being conducted on a weekly schedule. These monthly and weekly inspections documented that the CAMU Phase 1 and Phase 2 cell are operating as designed.

During November 2009, URS/CWC and IRS Environmental will conclude the cleaning and demolition activities set forth in approved 2009 Work Plan. Field work anticipated for November 2009 includes (1) continuation with the Fall Semi-Annual monitoring program, (2) conducting pneumatic slug tests on the remaining wells installed in 2009, and (3) drilling, installation, and sampling of monitoring wells in the tertiary material to the south of Seaver Park and Lamping field to evaluate background arsenic concentrations in the area. Two additional wells are scheduled for placement upgradient and downgradient of the old City of East Helena Landfill.

d. Describe and estimate the percentage of studies completed;

The Pump and Treat Pilot Scale Testing for Source Area Reduction of Groundwater Contamination is approximately 100% complete.

The jar testing (Phase I) of the East Helena PRB Materials Testing Program is 100% complete.

The slurry wall construction in the former acid plant sediment drying area is 100% complete. On July 24, 2008, Asarco submitted to EPA the Addendum to Interim Measures Work Plan, Former Acid Plant Sediment Drying Wall, Monitoring, Operations, and Maintenance Report, Asarco East Helena Facility.

The interim capping project for the former acid plant sediment drying area, dross area, sinter plant area, gas cleaning section of the acid plant, thaw house, contact section of the acid plant, blast furnace baghouse, blast furnace flue, and Monier flue is 100% complete.

The revised January 2008 CAMU Phase 2 Cell Design Analyses is 100% complete, the CAMU Phase 2 Cell financial assurance is fully funded, and construction and 2008 waste placement within the CAMU Phase 2 cell is 100% complete.

The slurry wall construction in the former speiss-dross plant area is 100% complete. On September 18, 2008, Asarco submitted to EPA the Addendum to Interim Measures Work Plan, Speiss-Dross Area Slurry Wall, Monitoring, Operations, and Maintenance Report, Asarco East Helena Facility.

Asarco completed the historic recordation tasks associated with the 2008 Cleaning and Demolition Work Plan. On September 23 and 30, 2008, the Phase 1 Historic Recordation Reports were submitted to EPA.

The obligations contained in the 2008 Interim Measures Work Plan Addendum, Blast Furnace Flue and Monier Flue Cleaning and Demolition and Demolition Footprint Exposed Areas Soil Sampling are 100% complete. On February 20, 2009, the findings from this completed work plan were submitted to EPA in a Summary Report.

Asarco completed the 2008 construction activities associated with the CAMU Phase 2 Cell. On January 30, 2009, the CAMU Phase 2 Cell, 2008 Construction Report was submitted to EPA.

Asarco (through ARCADIS) completed the historic recordation of buildings scheduled for cleaning and demolition prescribed in the 2009 Cleaning and Demolition Work Plan.

Asarco submitted the Phase 2 RCRA Facility Investigation (RFI) Work Plan to EPA.

Asarco submitted the Baseline Ecological Risk Assessment Work Plan (June 2009) and Field Sampling and Analysis Plan (FSAP) to EPA, the Montana Department of Environmental Quality and U.S. Fish Wildlife Service.

Asarco submitted the historic recordation script video for the 2009 stack demolition.

Asarco submitted the Human Health Risk Assessment Work Plan (October 2009) to EPA

Asarco submitted the Phase II RCRA Facility Investigation Site Characterization Work Plan (September 2009) to EPA

e. Describe and summarize all findings to date;

The details of past findings through September are described and summarized in previous monthly progress reports.

f. Describe actions being taken to address problems;

There were no other actions required to address problems associated with the Decree.

g. Identify changes in key personnel during the period;

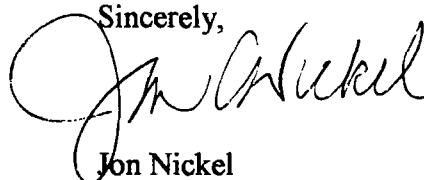
There were no changes in key personnel during the period. Asarco continues to use the services of Hydrometrics Incorporated to perform the various activities required under the Consent Decree.

h. Include copies of the results of sampling and tests conducted and other data generated pursuant to work performed under Part VII of the Decree since the last Progress Report. Asarco may submit data that has been validated and confirmed by Asarco to supplement any prior submitted data. Updated validated and confirmed data shall be included with the RFI Report, if not delivered before;

No validation packages are attached to this monthly progress report.

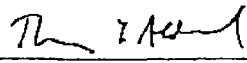
i. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

ASARCO filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Bankruptcy Code in the Southern District of Texas on August 9, 2005. ASARCO hopes to use its chapter 11 bankruptcy proceeding to improve its financial position to the point where it can successfully reorganize and emerge from bankruptcy. ASARCO further hopes that at that time it will be in a position to make the required financial assurance demonstration. Asarco has established the necessary CAMU Phase 2 Cell financial assurance and has provided EPA with the complete executed original of the CAMU Trust Fund Agreement.

Sincerely,

Jon Nickel

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

I certify under penalty of law that this document, October 2009 Progress Report and all attachments, were prepared under my direct supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

Signature 
Name: Thomas L. Aldrich
Title: Vice President Environmental Affairs
Date: November 5, 2009

CONSENT DECREE
 EAST HELENA SITE
 OCTOBER 2009 PROGRESS REPORT
 SUMMARY OF CORRESPONDENCE
ATTACHMENT 1

DATE OF TRANSMITTAL	CORRESPONDENCE SENT FROM	CORRESPONDENCE SENT TO	SUBJECT	RESPONSE
October 2, 2009	Jon Nickel	Linda Jacobson	Public Meeting Notification	No Formal Response Required
October 2, 2009	Mark Rhodes Jon Nickel	Linda Jacobson	Former Coke Storage Area Map	No Formal Response Required
October 8, 2009	Jon Nickel	Linda Jacobson	Human Health Risk Assessment Work Plan	Awaiting Approval
October 7, 2009 and October 17, 2009	Jon Nickel	Linda Jacobson	Map Illustrating Proposed Well Locations	Awaiting Access Agreement Language
October 19, 2009	Jon Nickel	Linda Jacobson	Well Installation Schedule and Cost Budget	Awaiting Access Agreement Language
October 21, 2009	Jon Nickel	Linda Jacobson	Road Improvement Costs	Awaiting Access Agreement Language
October 22, 2009	Jon Nickel	Linda Jacobson	Well Installation Update	Awaiting Access Agreement Language
October 17, 2009	Jon Nickel	Linda Jacobson	Response to Comments Matrix Table for the Human Health Risk Assessment Work Plan	No Formal Response Required